

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF TEXAS
3 SAN ANTONIO DIVISION

3 THE ELIJAH GROUP, INC.,) Case No. SA-08-CV-907-OLG
4)
4 Plaintiff,)
5)
5 VERSUS) San Antonio, Texas
6) December 5, 2008
6 THE CITY OF LEON VALLEY,)
7 TEXAS,)
7)
8 Defendant.)
8)

9 TRO/Permanent Injunction Hearing
10 BEFORE THE HONORABLE ORLANDO L. GARCIA
11 UNITED STATES DISTRICT JUDGE

12 TRANSCRIPT ORDERED BY: Honorable Ryan Henry

13 APPEARANCES:

14 For the Plaintiff HONORABLE DANIEL P. WHITWORTH
15 HONORABLE JOHN G. GEORGE
16 112 E. Pecan
San Antonio, Texas

17 For the Defendant HONORABLE RYAN HENRY
18 HONORABLE MIGUEL ANGEL MATOS
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1 THE COURT: Good afternoon. I'll call the Elijah
2 Group vs. City of Leon Valley, Texas, Cause No. 08-907. Who's
3 here present for the city of Leon Valley?

4 MR. HENRY: Ryan Henry and Miguel Matos for Leon
5 Valley, Your Honor.

6 THE COURT: And what's your name, sir?

7 MR. MATOS: Miguel Matos.

8 THE COURT: All right. And for Elijah Group?

9 MR. WHITWORTH: Daniel Whitworth, Your Honor.

10 MR. GEORGE: And John George.

11 THE COURT: All right, thank you, Counselors. Let me
12 have the City tell me -- you're seeking this injunction. I've
13 read the pleading, the pleadings that I have thus far. Tell
14 me what the status of your discussions are. If you'll come
15 over here to the podium?

16 MR. HENRY: Our primary concern, as the Court is
17 aware by reading the pleadings, we're not here on anything
18 regarding the zoning. It's only regarding fire code
19 violations which have recently been discovered.

20 THE COURT: Right. Okay.

21 MR. HENRY: The plaintiffs have informed me that they
22 are trying to correct several of the fire code violations.
23 They believe they can have them corrected in time. We're not
24 certain if that's correct. Our Fire Marshal hasn't been out
25 to reinspect yet. He has actually received several calls from

1 contractors regarding some of the repairs that are going on at
2 the moment and some concerns as to whether or not they can
3 actually be up and operational by Sunday.

4 THE COURT: Okay. This building, has it been vacant
5 all this time?

6 MR. HENRY: It's been vacant -- believe it was vacant
7 for eight or nine months before anyone moved in.

8 THE COURT: Well, has the church conducted its church
9 services there?

10 MR. HENRY: Our understanding is they have been
11 conducting church services there, yes, Your Honor.

12 THE COURT: How many weeks have they been meeting
13 there?

14 MR. HENRY: Confirmed, probably about a month and a
15 half.

16 THE COURT: Okay. Describe the nature of these
17 deficiencies or problems.

18 MR. HENRY: There are larger deficiencies and minor
19 deficiencies, Your Honor. Part of the deficiencies it's
20 difficult to kind of capture because we need to know the exact
21 use. Different fire code restrictions apply depending on
22 whether or not it's being used as a church or as a school or a
23 daycare, as their application noted that they were using.
24 When our Fire Marshal went out to perform an inspection, he
25 noted that they told him it was to be used as both a church

1 and a school daycare. Our understanding, we've only witnessed
2 church services, no school or daycare services occurring.

3 The school or daycare services are the more
4 restrictive because they require a sprinkler system. That's
5 the primary difference between the church and the school
6 daycare.

7 For the church services, Your Honor, they need to
8 have an operating fire system inspected by a licensed
9 inspector that is being monitored. They need to have their
10 exit lights properly marked. There's actually some locking
11 issues, certain locks lock from the wrong side which don't
12 allow people to get out should there be a fire.

13 THE COURT: All right, the last time this building
14 was inspected, am I correct, was November 17, 2008, or has
15 there been a subsequent inspection?

16 MR. HENRY: There's been no other inspection other
17 than November 17th.

18 THE COURT: Okay. And when did the church, or
19 whoever -- have people been working on this facility to
20 correct the deficiencies?

21 MR. HENRY: Our understanding, Your Honor, is -- if I
22 can give a little bit of expanse to the story?

23 THE COURT: Yeah, go ahead.

24 MR. HENRY: Because the building was vacant, it was
25 subject to vandalism and people came in and they stripped out

1 all the copper wiring. They did a bunch of bad things to the
2 building. The tenants went in and began making repairs. Our
3 building inspector came in and said from a structural
4 standpoint they had fixed the building issues, but the Fire
5 Marshall still needed to come in and do an inspection for
6 final approval for use.

7 The church started holding church services. Our Fire
8 Marshal's the one that discovered them. As he was driving by
9 he noted it wasn't someplace he had inspected and came in and
10 talked to them and they said yes, they are holding church
11 services here. And he advised them, "Well, you need to get it
12 corrected."

13 They began making corrections. And our Fire Marshal,
14 Mr. Valdez, can testify, I'm uncertain of the exact date, it
15 was early November, if I am not mistaken, that he advised them
16 they needed to get it corrected and shouldn't be occupying the
17 building at that time. They began making corrections at that
18 time but I believe it was on kind of a slow basis.

19 Last Sunday, Your Honor, the Fire Marshal drove by
20 again and noted a large congregation of cars outside the
21 building having services, and he had not been called back in
22 to do a re-inspection to see if everything had been fixed.

23 THE COURT: How many people would you say or estimate
24 were present?

25 MR. HENRY: He's estimated there were 30 to 40 cars.

1 outside the building on Sunday.

2 THE COURT: Okay. All right, and when's the last
3 time the Fire Marshal was at the location?

4 MR. HENRY: For an inspection, Your Honor, that would
5 have been November 17th. Actually in the vicinity to witness
6 the exterior, that would have been last Sunday.

7 THE COURT: All right. And I read the inspection
8 report filed on that date. So if he hasn't been there since
9 November 17th, he doesn't know what, if any, of these
10 deficiencies have been corrected? Which if any?

11 MR. HENRY: He does not know if any of them have been
12 corrected, Your Honor.

13 THE COURT: Well, is it possible that they've all
14 been corrected or they've not been corrected?

15 MR. HENRY: It's possible that they -- most of them
16 may have been corrected.

17 THE COURT: But you don't know?

18 MR. HENRY: We don't know. The Fire Marshal received
19 a phone call today from a fire alarm contractor that called
20 him because they were called in to look at the fire alarm
21 system. One of the big issues is there's no working fire
22 alarm system in this building and there's no monitoring in
23 this building. And they had concerns about the fact that they
24 didn't think it was fixed as of today.

25 THE COURT: That's the alarm company saying that or

1 the Fire Marshal?

2 MR. HENRY: That is the alarm company telling -- or
3 the -- yes, the alarm company telling the Fire Marshal that
4 it's not fixed.

5 THE COURT: Okay, it's not fixed. And are they
6 working on it?

7 MR. HENRY: What they informed him at the time, Your
8 Honor, was that they were told by the church that the Fire
9 Marshal said certain things didn't need to be fixed. He said
10 he never said that. And the alarm company told him that they
11 were having a local individual within the congregation fixing
12 it who is not licensed by the State of Texas, so they wouldn't
13 be able to give a seal for it. As far as we know it has not
14 been fixed and no monitoring has been set up.

15 THE COURT: Okay. And is that the major violation or
16 they're equally --

17 MR. HENRY: That's the biggest one if all we're
18 talking about is a church use. If we're talking about a
19 church and a daycare use, the sprinkler system's --

20 THE COURT: Sprinkler system is needed.

21 MR. HENRY: Yes, Your Honor.

22 THE COURT: Okay, well, let me hear from the
23 counselors for the church then.

24 MR. HENRY: Yes, Your Honor.

25 THE COURT: Counselor, are there -- does your client

1 concede that there are some violations that have yet to be
2 resolved?

3 MR. WHITWORTH: Judge, I hung up with my client as we
4 were walking in the building and --

5 THE COURT: I'm sorry?

6 MR. WHITWORTH: I'm sorry. I hung with my client as
7 we were walking in the building, and I have been told that all
8 the things that were on this November 17th fire inspection
9 report had been dealt with. We had originally --

10 THE COURT: Well, where are you clients?

11 MR. WHITWORTH: He's on the way here, Judge.

12 THE COURT: Okay, good, we'll wait. Well, can we
13 agree to this? That if they're not fixed, obviously they
14 can't meet, right?

15 MR. WHITWORTH: Judge, I would agree with that
16 completely.

17 THE COURT: I'm sorry?

18 MR. WHITWORTH: I would agree with that completely if
19 we're talking about the items on this November 17th report,
20 because the affidavit attached to their temporary restraining
21 order, the City's TRO, Fire Chief Luis Valdez said
22 specifically he was out there looking at it both as a church
23 and a school daycare. What we're concerned about is the
24 parameters are going to change if we do agree to some kind of
25 a inspection to go out there. Well, when he inspected it on

1 the 17th, this is the report he did. It doesn't distinguish
2 between this is what's for church and this is what's for
3 daycare.

4 THE COURT: Well, if there's not a workable fire
5 alarm system there right now, and if there's not a fire alarm
6 system there prior to the church service, I presume they meet
7 on Sunday, then obviously you can't be there, right?

8 MR. WHITWORTH: Well, exactly.

9 THE COURT: Okay. So --

10 MR. WHITWORTH: And, like I said, I've been told that
11 this has all been done but we're waiting for Pastor Crane to
12 get here.

13 THE COURT: Well, let's hear from -- but what you're
14 telling me is that if these deficiencies are there and if
15 they have not been resolved to the satisfaction of the City of
16 Leon Valley, Texas, then, obviously, your church, or any other
17 group, can't be meeting there, right?

18 MR. WHITWORTH: These specific deficiencies on the
19 report, yes, sir.

20 THE COURT: But they still need to go out there.
21 When will they be here?

22 MR. GEORGE: Your Honor, he indicated he could be
23 here in about 30 minutes and that was approximately 15 to 20
24 minutes ago.

25 THE COURT: Okay, great. We'll be in recess, then.

1 **(Recess; resuming.)**

2 THE COURT: Okay, Counselor, go ahead. I understand
3 your clients are not here yet or not able to be here yet?

4 MR. WHITWORTH: We just got Pastor Crane on the
5 phone, Judge, and he said he was on Durango and would be here
6 momentarily.

7 THE COURT: Okay. Let me ask you something. Have
8 you personally been out there to the facility, to the church?

9 MR. WHITWORTH: I have several months ago, but not
10 recently.

11 THE COURT: Okay, and it's your understanding from
12 your clients that you believe, or they believe that everything
13 has been now resolved?

14 MR. WHITWORTH: Judge, I was told that not an hour
15 ago on the telephone that all those issues have been resolved.

16 THE COURT: Okay. But the inspector, Fire Marshal
17 has not been out there since the 17th -- is that right? -- of
18 November?

19 MR. HENRY: That is correct, Your Honor.

20 THE COURT: Okay. Well, he would have to go out
21 there and inspect the premises to see that matters have been
22 resolved and resolved satisfactorily consistent with the
23 ordinance and however he deems they ought to be corrected.
24 And would you agree with me that if they're not, then you-all
25 can't have church there Sunday?

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1 MR. WHITWORTH: We would agree with that, Judge.

2 THE COURT: Okay, so we'll just wait for your client.
3 Just let me know when they're here.

4 **(Recess; resuming.)**

5 THE COURT: All right, let's do this. Let me hear
6 from the City, from the Fire Marshal as to specific concerns
7 or violations, alleged violations of the ordinances, and
8 why don't you put him on the stand.

9 MR. HENRY: Yes, Your Honor.

10 THE COURT: Go ahead.

11 MR. HENRY: I'd like to call Luis Valdez to the
12 stand.

13 **LUIS VALDEZ, LEON VALLEY'S WITNESS, SWORN**

14 **DIRECT EXAMINATION**

15 **BY MR. HENRY:**

16 Q Mr. Valdez, can you please state your full name?

17 A Luis Valdez.

18 Q And you're the Fire Marshal for the City of Leon Valley,
19 correct?

20 A My title is Deputy Fire Marshal, actually.

21 Q Okay. You're the one that enforces the fire code?

22 A Yes.

23 Q And you do fire inspections?

24 A Yes, sir.

25 Q Okay. When did you last inspect the property -- I want to

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1 make sure I get the proper address. It's 6401 Bandera Road?

2 A I'm not sure. It's the last inspection I gave you a
3 couple of weeks ago.

4 Q Would that have been November 17th, 2008?

5 A Yes, November 17th.

6 Q Okay. And you noted several fire code violations at that
7 time?

8 A Yes.

9 Q Okay.

10 MR. HENRY: Your Honor, do you want exhibits? Most
11 of them are the ones already attached to the motion.

12 THE COURT: I have them. Let me do this. This is
13 Exhibit B? No, I'm sorry, hold on.

14 MR. HENRY: Exhibit C, Your Honor.

15 THE COURT: Okay, I have before me Exhibit C, and
16 then along with the attachment which reads, "City of Leon
17 Valley Fire Prevention Division No. 2150," dated November
18 17th, 2008, "at the location of 6401 Bandera Road, Suite A."
19 Tell, me do you have this copy here? You want to give him
20 your copy?

21 MR. HENRY: Yes, Your Honor.

22 **CLARIFYING EXAMINATION**

23 **BY THE COURT:**

24 Q Marshal, if you can just tell me the areas you've checked
25 and tell me each violation, the description and what the

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1 potential consequences are if it is not corrected.

2 A Yes, sir. First, if I could just explain that I inspected
3 this building based on what was there, and because a use
4 hasn't been decided yet -- different uses would require
5 different things in the fire code.

6 Q Right.

7 A If there's an area where -- if it's the same building but
8 it's a book store versus a nightclub, different things would
9 apply. So for what was there, this is all --

10 Q Okay, that's a good point. You inspected this building on
11 that day and what were you inspecting it for?

12 A I just inspected what was there, what was existing and I
13 made some notations as to what was proposed and gave them an
14 additional attachment as to what was proposed by them.

15 Q Okay. So are you telling me that some requirements -- if
16 I understood you correctly, some requirements are imposed for
17 specific functions and not others?

18 A Yes, sir.

19 Q Okay. Well, say, "Repair exit lights as needed, both
20 bulbs must be operative"?

21 A Yes, sir, that part, when I went in there all the exit
22 lights were out.

23 Q And that requirement would probably be a requirement
24 regardless of what the building's being used for, right?

25 A Yes, sir, and the way the fire code reads is any occupancy

Valdez - Clarifying Exam by Court

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1 with an occupant load above 50 as determined by the fire code
2 official. So, yes.

3 Q All right. Then Item No. 4: "Replace missing/broken
4 electrical outlet covers/receptacles." What are those?

5 A Around the electrical outlet there's a plastic plate that
6 protects people from sticking their hands in there, especially
7 children. Some of those were damaged or cracked and we wanted
8 those replaced.

9 Q And how many of those do you recall having seen as either
10 missing or broken?

11 A I remember seeing two.

12 Q Okay, now how big is this building? What's the square
13 footage? Approximately?

14 MR. HENRY: Off the top of my head, Your Honor, I
15 don't know.

16 THE COURT: I'm sorry?

17 MR. CRANE: Eight thousand square feet.

18 Q All right. That's a huge building. All right, tell me
19 then No. 15. No. 15, "Have the fire alarm system inspected
20 and re-tagged by a licensed service company." Tell me about
21 that.

22 A Yes, sir. The State of Texas requires that all life
23 safety devices, all fire alarm devices are installed by a
24 licensed contractor. That's all regulated by the State, the
25 State Fire Marshal's Office. What I do as the Fire Marshal is

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1 basically say when the fire alarm system is required and how
2 it should be installed, and it should be installed according
3 to the national standard by a state-licensed individual. The
4 fire alarm that was in there was last inspected, and it has a
5 certification tag on there by a licensed individual, and every
6 year they're supposed to come out and put an inspection tag
7 saying this is compliant for this use of this building. And
8 that's a annual inspection that is required on every fire
9 alarm system in Texas.

10 Q This is a fire alarm system?

11 A Yes, sir.

12 Q When was that system last inspected?

13 A 2004.

14 Q Okay. And it's supposed to be done annually?

15 A Yes, sir.

16 Q Okay. And was that system a workable system?

17 A The system was off line and --

18 Q What do you mean by off line?

19 A It was not connected, there was no power going to the
20 system at all. The battery --

21 Q Is that a question of turning on a switch?

22 A I believe it wasn't wired up. I don't know, I didn't
23 check that part of it so --

24 Q Okay, in any event, it was not operable on the day you
25 inspected it?

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1 A Right. And there were some other issues there, sir.

2 There was -- some devices were hanging down from the ceiling,
3 tiles. Some devices were painted, had paint on it.

4 Q Now when you say some devices, specifically what are you
5 talking about?

6 A Horn strobes, smoke detectors; like a strobe, a
7 notification appliance circuit that flashes to let occupants
8 know that there's a fire.

9 Q What do you call that?

10 A That's a strobe.

11 Q Strobe?

12 A Yes, sir.

13 Q Okay.

14 A And there's a strobe and a horn strobe, which would be a
15 strobe and a speaker that sounds as well at the same time.
16 The devices that were in the building, some of the had paint
17 on them, which is a violation in the National Fire Protection
18 Association's standard.

19 Q Why is that?

20 A It can interfere with the operability [sic] of the device.
21 It's not tested like that, it's not -- it's just not --

22 Q Say like one of these strobes that you're referring to, if
23 that was painted that could affect the operation of that
24 strobe?

25 A Yes, sir.

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1 Q Okay. And when you're talking about these components, the
2 strobe and the system itself, this is all one fire alarm
3 system?

4 A Yes, sir. Yes, sir.

5 Q All right. Then there's some writing here below that No.
6 15. Can you tell me what each of those are?

7 A Yes, sir. The first item is repaint the fire lanes. They
8 are --

9 Q These are the fire lanes where, outside the building, in
10 the building?

11 A I'm sorry, my writing. They are faded and unidentifiable,
12 I believe I wrote. "They are worn and unidentifiable." Yes,
13 sir, those are the red striping on the outside of the
14 building.

15 What I do is I try to go -- when I do an inspection
16 is I'm looking to see, okay, what was required when you
17 initially built the building, and if that was a requirement
18 when you built the building to be there in the first place, I
19 look to make sure that those devices are maintained. So this
20 fire lane was determined a long time ago when they first built
21 the building and it had been faded.

22 So I checked to make sure, okay, a fire alarm system
23 was required, it needs to be fixed. Exit lights were
24 required, they need to be fixed. Your fire lane striping is
25 faded, you need to repaint it. And this is just about on any

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1 business.

2 Q Okay. And what's the second one there?

3 A "Cover and replace the cover for exterior electrical
4 panel; secure properly." They had an exterior electrical
5 panel for their power and it was exposed and wires were easily
6 accessible to the public.

7 Q Was the utilities working?

8 A Yes, sir.

9 Q There's light in the building?

10 A Yes, sir.

11 Q Okay. All right, and the third item?

12 A "Remove interior accessory lock in lady's bathroom."
13 Somebody added a lock to a door and they added it very high so
14 I guess children couldn't unlock it. But we have lock
15 requirements on doors so that people that are in wheelchairs
16 or are short, they can reach the locks and not locked in. So
17 I wanted that lock removed.

18 Q All right, and then?

19 A "Provide a blank dummy cover at breaker No. 35 at large
20 cover on Panel B." And what is is there's breaker switches
21 and a couple of the breaker switches were missing and that
22 left a hole or a gap in there to where somebody, or one of our
23 firefighters or somebody could reach in trying to turn off
24 breakers and actually get electrocuted. So I was concerned
25 about that.

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1 Q All right, and the next one?

2 A "Provide fire extinguisher stickers indicating location of
3 fire extinguishers." Those are red and white stickers that
4 are at eye level so that if you're in a standing room, the
5 level of fire extinguishers is generally blocked by the public
6 standing. But the stickers are up high so that if you're
7 standing, you could see that sticker and know where it is.

8 Q Right. Well, first of all, were there any fire
9 extinguishers in the building anyway?

10 A Yes, sir, they were there.

11 Q And were they operable?

12 A Yes, and they had a certification tag on them. Yes, sir.

13 Q And those were operable?

14 A Yes, sir.

15 Q But no stickers?

16 A No identification stickers.

17 Q Right, okay. All right.

18 A The next one?

19 Q "Provide" -- what's the next one there?

20 A "Provide address numbers to building, minimum of 6-inch
21 address numbers." This is a requirement, it's a City code.
22 We want to know where we're going. There was no address
23 numbers on the building.

24 Q Sure.

25 A The next one is "Provide installed carbon monoxide

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1 detectors at all child-care rooms." And that's proposed I put
2 in parenthesis.

3 Q If it were a facility?

4 A If it was that. And one of the things I was concerned
5 about was that the fire alarm system, the requirements for a
6 fire alarm system are going to be different for a daycare
7 versus a church. Rooms where children are sleeping and are
8 incapable of self-preservation, they're required to have smoke
9 detectors in those rooms and other devices. This building
10 doesn't have that. So if the fire alarm system is correct, if
11 it's fixed, it's fixed for what use? That's why in their
12 initial request for certificate of occupancy, I looked to see
13 what they're going to use the building for so I can determine
14 what's needed to meet code.

15 Q And what is their request for right now?

16 A Their original certificate of occupancy was for use as a
17 daycare facility. And so that's why I attached a report
18 saying that if you're going to use this for a daycare, well,
19 these are some of the requirements you're going to need to
20 meet that code. If you're going to use it for a church, then
21 your certificate of occupancy was applied without the proper
22 use and you should reapply.

23 Q Okay. All right.

24 THE COURT: Anything else, Counselor?

25 MR. HENRY: I have two short lines of questioning,

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1 Your Honor.

2 THE COURT: No, go ahead. Take as long as necessary.

3 DIRECT EXAMINATION RESUMED

4 BY MR. HENRY:

5 Q Okay. In referencing the exhibit you have in front of
6 you, can you turn to the last page, Marshal Valdez? Most of
7 your explanations there are pretty self-explanatory, but I
8 want you to explain -- you see the, I guess the second to
9 last paragraph, it says, "In addition, it is necessary to
10 obtain a seating diagram"?

11 A Uh-huh.

12 Q Can you explain that to the Court why that was put in
13 there?

14 A Yes. Because I want to -- I needed to determine what
15 rooms are going to be used for infants, where they actually
16 have to be carried in and out of the building, what rooms are
17 identified for what purpose and including if there's a
18 sanctuary where people are gathered, then I need to figure out
19 a total occupant load so I can determine if and what type of
20 sprinkler system is required or any other systems, you know,
21 what other fire alarm system. Is there a voice-activated
22 system required? Again, I was -- I think I asked several
23 times for information and I was not given that information.

24 Q Now if the area was to be used as a church, would this
25 request for a diagram still be --

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1 A Yes.

2 Q Okay. So what type of seating arrangements would you need
3 to know for a church?

4 A Well, the reason I want to know the church seating
5 arrangements is because it helps me determine the occupant
6 load and also aisle widths, how many -- a door, or if -- I can
7 determine if they're going to use -- even if they're not fixed
8 seating I can base it on fixed seating and I can determine how
9 many exits that are needed for that building and how long they
10 should be apart or how much the travel distance is from where
11 they're sitting to where they need to go. If the building
12 wasn't designed for that use, then there are some things that
13 need to be added, maybe another door or different hardware.
14 Panic hardware is required when you reach a certain occupant
15 load.

16 THE COURT: What was this building used for
17 previously?

18 THE WITNESS: It was used for a church, sir.

19 THE COURT: And did that church meet its obligations?

20 THE WITNESS: At the time. Yes, sir.

21 THE COURT: It was compliant?

22 THE WITNESS: Yes, sir.

23 THE COURT: Was there ever a time that that church
24 was permitted to go on for weeks or months not compliant with
25 the fire ordinances?

Valdez - Direct Resumed by Henry

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1 THE WITNESS: No, sir.

2 THE COURT: All right. Anything else?

3 MR. HENRY: Yes, Your Honor, one last set of topics.

4 Q Marshal Valdez, I know you said you hadn't inspected the
5 interior of the building since November 17th?

6 A Uh-huh.

7 Q Is that correct? I'm sorry, we need verbal answers.

8 A Yes, sir. I'm sorry.

9 Q Okay. But you did obtain information regarding the status
10 of the fire alarm system as of today, did you not?

11 A Yes, I did.

12 Q Okay. So why don't you tell us what information you
13 obtained and how you obtained it?

14 A I received a phone call from a licensed contractor from
15 the ADT Company. It's a fire alarm company. And the
16 technician on the phone was very concerned about something
17 that had happened at this occupancy. Under their state
18 license they're required to report any problems that they have
19 with local fire alarm systems, occupants, tenants, or anybody
20 to the local fire authority to let them know this is a problem
21 with the system, or with the agency and we need this fixed, or
22 we're letting you know. And what they did was they -- she
23 said that they were called out to do a fire alarm evaluation,
24 to fix their fire alarm system. And she said that they told
25 her that I did not require them to be a monitored fire alarm

Valdez - Direct Resumed by Henry

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1 system. And she asked if that was --

2 THE COURT: That they told her what?

3 THE WITNESS: That I would not require them to be a
4 monitored fire alarm system. That means that if there's a
5 fire that it's immediately dispatched to a monitoring center
6 and dispatch our fire trucks to that scene. I asked her what
7 she thought about that statement and I told her that -- well,
8 I told her that that was not true, that I would never allow
9 any fire alarm system to not be monitored. That's a standard
10 requirement that they're monitored, especially either a Group
11 A or an assembly, a church, or a daycare. She said that --

12 THE COURT: And this person told you what?

13 THE WITNESS: She said that they told her that I did
14 not require monitoring.

15 THE COURT: And this person was calling to say --

16 THE WITNESS: She was calling to say that there's no
17 phone line there and that the system is not compliant and she
18 told them, "Well, I need to know what you're going to use the
19 building for so I can design and install and fix this system
20 according to what you're going to use the building for. If
21 you're going to have kids here, we need to know." And she
22 said that -- she didn't get the job but she was concerned
23 because she's aware that a member of their congregation was
24 working on the fire alarm system and that she thought it was
25 necessary to report that to me. And I agreed. If they're not

Valdez - Direct Resumed by Henry

24

1 licensed, that's a life-safety device and it's not -- should
2 not be allowed.

3 THE COURT: Right. Okay.

4 Q Did she have any other comments about the status of the
5 fire alarm system when she talked to you?

6 A She said that the fire alarm system when she went there
7 that there was no phone line there, it was not monitored. It
8 was in disrepair and needed some work to bring it up to code
9 but she didn't even know what to apply until --

10 THE COURT: You mean you're talking about the fire
11 alarm system?

12 THE WITNESS: Yes, sir.

13 THE COURT: Okay. When you say there's no phone
14 there, you mean with respect to a fire alarm system or there's
15 no phone in the building?

16 THE WITNESS: No, sir. The fire alarm panel needs a
17 phone line to send out a signal to the monitoring company.

18 THE COURT: To the monitoring station?

19 THE WITNESS: Yes, sir.

20 THE COURT: All right. Let me ask you, Mr. Valdez,
21 of all the items that you've listed on the report, that is
22 those that you wrote on the 17th of November of this year, is
23 the most pressing concern is the fire alarm system as opposed
24 to the fire lanes and to the stickers? I mean they're all
25 important, but in the scheme of things the most important one

Valdez - Cross by Whitworth

25

1 here is which one?

2 THE WITNESS: Yes, sir. It would be the fire alarm
3 system. As I said in my report on this day, that would be
4 needed in order to occupy the building. I went the following
5 Sunday and they were still in the building.

6 THE COURT: What was still in the building?

7 THE WITNESS: There were still 40 vehicles in the
8 parking lot.

9 THE COURT: Oh, I see. Okay. Anything else?

10 MR. HENRY: I think you actually covered everything,
11 Judge. Oh, one more question.

12 Q Did she provide you any information with regard to any of
13 the devices attached to the fire alarm or anything else?

14 A Well, she said the tag on the system had said 2004 and
15 she confirmed that, that's what I had said.

16 Q Okay.

17 MR. HENRY: No further questions, Your Honor.

18 THE COURT: Thank you. Do you have any other
19 witness?

20 MR. HENRY: No, Your Honor.

21 THE COURT: Okay. All right. Go ahead.

22 MR. WHITWORTH: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. WHITWORTH:

25 Q Mr. Valdez, you're the Fire Marshal, is that correct?

Valdez - Cross by Whitworth

26

1 A Deputy Fire Marshal, sir.

2 Q Who's the Fire Marshal?

3 A The Fire Chief.

4 Q All right. And you've been talking about a lady from ADT.

5 Do you have a name for her?

6 A Her name is Shelly. I didn't get her last name, sir.

7 Q And when did you talk to her?

8 A About 2:30 today.

9 Q Okay. And do you have any idea when she was out there?

10 A She said she was out there earlier today.

11 Q You don't have any personal knowledge of that, whether she
12 was ever there?

13 A No, sir, I don't.

14 Q And as part of your job do you do the fire inspections for
15 the City?

16 A Yes, sir.

17 Q And you know that Pastor Crane's congregation has been out
18 there since October 17th, 2008?

19 A I don't know the exact date.

20 Q But they've been out there for quite some time? You would
21 agree with that?

22 A Yes, sir. Since October I guess.

23 Q Okay. And you're employed by the City?

24 A Yes, sir.

25 Q And you understand we're here today on an emergency TRO?

Valdez - Cross by Whitworth

27

1 A Yes, sir.

2 Q And yet you've done nothing to go back there since they've
3 been in there since September of this year?

4 A What do you mean?

5 Q Well, you've done an inspection in November 17th, 2008.
6 You'd agree with that?

7 A Yes, sir.

8 Q And the certificate of occupancy was issued in September
9 of 2008? You've seen that?

10 A The certificate of occupancy was issued -- it was not a
11 certificate of occupancy, it was a temporary certificate of
12 occupancy, and it was issued in error because it was issued
13 under the wrong use. The certificate of occupancy application
14 said daycare and it was RTM Enterprises, I believe. Since
15 then they've changed their name to Resurrection Center, and
16 when I went over there the other day it said The Glory Barn
17 Christian Learning Center. So I -- again, the certificate of
18 occupancy, I told him on several occasions that he needed to
19 apply properly with the City so we knew what the name of his
20 building was and what they were doing there, what the use of
21 the building is.

22 Q Okay, and that's not my question. Let me ask you again.
23 You knew that they had this certificate of occupancy, whether
24 you think it was incorrect or not, since September of 2008, is
25 that correct?

Valdez - Cross by Whitworth

28

1 A They had a temporary certificate of occupancy.

2 Q But it says temporary certificate of occupancy on it?

3 A UH-huh.

4 Q And you went out there November 17th of 2008 to do your
5 inspection?

6 A Uh-huh.

7 Q That doesn't sound like an emergency, would you agree with
8 that?

9 A Well, it depends on -- obviously we're involved in a court
10 case, so I don't know being my first. I try to enforce the
11 codes as best I can. Usually I get compliance when I say
12 don't occupy the building. That's usually all it takes is I
13 say, "This is a problem, you need to fix it. This is for the
14 welfare of the public, don't occupy the building." But
15 they've continued to occupy the building and I probably should
16 have gone out there and done maybe something else to get them
17 to comply with the order to fix a life safety device.

18 Q Okay, but September to November is two months, correct?

19 A Uh-huh.

20 Q September to December is three months.

21 A I don't know exactly when they were out there, sir. I was
22 told that -- generally what happens is they apply for a
23 certificate of occupancy and it gets sent to my office so I
24 can schedule for an inspection. When I got this certificate
25 of occupancy I was told to not go out there to do a final

Valdez - Cross by Whitworth

29

1 C of O because the City needed to know exactly what they're
2 going to use the building for because that was already in
3 question.

4 So I get a phone call from a representative of the
5 church, Ms. Christine Crane, I believe, and she asked me if I
6 could come out to inspect her building for a daycare center.
7 The State requires that in order for you to use the building
8 as a daycare, you have to get a fire inspection. I told her,
9 "Ma'am, I can't come out and do your inspection yet because
10 you have to go back and get your certificate of occupancy
11 applied for properly and get the proper name and use put down
12 on your building. Once you get that addressed and approved,
13 send it to my office, I'll be more than happy to come out.
14 What are you going to use the building for?"

15 And she says, "Daycare."

16 And I said, "Are you going to use it for anything
17 else?"

18 And she said, "No."

19 Q When was the last date you were out there? Was that the
20 date of your report?

21 A Yes. Well, actually it was last Sunday I was out there at
22 11:15. I didn't go in the building.

23 Q But when you did this inspection report, was that the last
24 time you've been in the building?

25 A Yes, sir.

Valdez - Cross by Whitworth

30

1 Q Okay. And then you also signed an affidavit. Do you have
2 Exhibit D in front of you from the --

3 A No, sir, I don't.

4 Q But you're familiar with your affidavit?

5 A Yes.

6 MR. WHITWORTH: May I approach, Your Honor?

7 THE COURT: Yes, you may.

8 Q Let me hand you a copy of what was attached as Exhibit D
9 to the application for TRO, and I'm going to point right
10 there. Do you see where it says, "Both a church and a school,
11 daycare"?

12 A Yes, sir. That statement is what they told me when I was
13 on site. That was not on the application for --

14 Q This is in your sworn affidavit, though?

15 A Yes, sir, and if you read that statement, sir, it says
16 that I -- when I went there that's -- this is -- when I went
17 there then they told me they were going to use it for a church
18 and a daycare.

19 What happened was I was driving by -- I live a mile
20 from the fire station, I live in the city of Leon Valley --
21 driving by knowing that nobody's supposed to be in that
22 building and I pull in. And the day -- I think it was on a
23 Thursday, I asked the person on the telephone, "What are you
24 going to use this building for?"

25 She says, "Daycare."

Valdez - Cross by Whitworth

31

1 I said, "Are you going to use it for anything else?"

2 She says, "No."

3 I said, "Are you going to use it for a church?"

4 And she says, "No."

5 And I said, "Okay. Then you should be fine. Make
6 sure your paperwork's taken care of with the City. They'll
7 send it to me. I can then get free to go and reinspect your
8 building."

9 I'm driving around, I pull into the church. I'm off
10 duty so I'm not in uniform. And when I walk into the door, I
11 say, "What time is service?"

12 And they say, "11 o'clock, sir, come in and have a
13 seat."

14 Q Is any of that in your sworn affidavit supporting this
15 application for TRO?

16 A Well, I -- no.

17 Q It either is or it isn't.

18 A It isn't.

19 Q Thank you.

20 MR. WHITWORTH: That's all I have, Your Honor.

21 THE COURT: All right. Anything else?

22 MR. HENRY: Very brief redirect, Your Honor.

23 THE COURT: Sure.

24 **REDIRECT EXAMINATION**

25 **BY MR. HENRY:**

Valdez - Redirect by Henry

32

1 Q Marshal Valdez, is a temporary certificate of occupancy
2 meant to allow people to actually occupy it and use?

3 A No.

4 Q What's it meant for?

5 THE COURT: Actually for what?

6 MR. HENRY: To use. To occupy and use, Your Honor.

7 A No.

8 Q Okay. When a temporary certificate of occupancy is
9 issued, like the one issued in September of this year, what is
10 its intended purpose?

11 A It's intended purpose is to allow the tenant to turn on
12 the power and set up the displays, set up the aisles, chairs,
13 rows, furnishings, to see how they're going to use the
14 building. The building inspector generally says the building
15 is safe to occupy. The fire inspector says it's safe to use.
16 So I need to see how they're going to use the building. You
17 know, I can't say, "You can use this empty shell of a
18 building." I need to see where you're furnishings are, are
19 you hanging things from the sprinkler heads. Are you doing
20 things that you shouldn't be doing. So set up everything.
21 Are you blocking exits with your chairs and your tables? So
22 that's why we say a temporary C of O, okay building, now set
23 it up. Does that make sense?

24 CLARIFYING EXAMINATION

25 BY THE COURT:

Valdez - Clarifying Exam by Court

33

1 Q Now when you have a temporary CO, is the occupant using
2 the building in the manner he wants to use it, or is this just
3 like the preliminary stages?

4 A They're not supposed to. I mean, you know, it's not
5 saying that they have -- but, no, they're not supposed to be
6 open to the public until they pass their fire inspection.

7 Q Okay.

8 A And that's when they get their final certificate.

9 Q And is that the stage you're in? There's a temporary CO
10 in existence right now?

11 MR. HENRY: Correct, Your Honor.

12 Q How long does a temporary CO last?

13 A I don't issue the temporary C of O's, but generally it's
14 been 45 days I think is the --

15 Q And the one here was issued in September?

16 A Yes, sir, I think.

17 Q So has it expired?

18 MR. HENRY: It has expired, Your Honor. It is also
19 contingent upon Fire Marshal approval and when he went out on
20 November 17th, our contention is that pretty much eliminates
21 it because he failed them for the fire inspections.

22 THE COURT: All right. Okay, anything else?

23 MR. HENRY: No, Your Honor, that's it.

24 THE COURT: Okay. Counselor?

25 MR. WHITWORTH: Judge, I don't have any further

Valdez - Clarifying Exam by Court

34

1 questions but I do have a clarification. It's six months for
2 the temporary certificate of occupancy.

3 THE COURT: Okay. All right, that's fine.

4 Q But, as far as you know, Mr. Valdez, from your own
5 inspection, this facility is not compliant with the fire code
6 regulations for the City, right?

7 A No, sir.

8 Q And you visited or you saw the building last Sunday?

9 A Yes, sir.

10 Q You went into the building?

11 A I did not go in the building, sir.

12 Q Okay.

13 A Generally what happens is they'll call me to say, "Come
14 and reinspect, we're to reinspect because we want to open. We
15 want people to come into our business."

16 Q Okay, and no one called you after November 17th?

17 A No, sir.

18 Q And who did you, this November 17th document, or document
19 dated November 17th, who did you give that to?

20 A Mr. Crane.

21 Q Mister who?

22 A Mr. Daryl Crane.

23 Q Okay. All right. And so you've not received a call from
24 anyone about the document you gave them?

25 A No, sir.

Valdez - Clarifying Exam by Court

35

1 Q No one's called you and said, "Okay, fine, come and check
2 us out"?

3 A No, sir.

4 Q No one's called you and said, "We're ready to do business,
5 you need to come here because we want to have Sunday
6 services"?

7 A No, sir, nobody called, I've not received a phone call
8 from anybody.

9 Q Is the usual course that a person would call you?

10 A Yes, sir. I had an incident yesterday where an individual
11 called me saying, "Can you come and reinspect me so I can
12 open." And it's pretty standard that all local people that
13 work in the city, either they're licensed or business owners,
14 it's their responsibility to know the local codes and to check
15 with the local officials to find out before they open to the
16 public that they're compliant.

17 Q Right. Okay, thank you, sir.

18 THE COURT: You may step down. And you have no
19 further witnesses, right?

20 MR. HENRY: We have no further witnesses, Your Honor.

21 THE COURT: All right. Do you have any witnesses?

22 MR. WHITWORTH: Yes, Pastor Daryl Crane is here, Your
23 Honor, we'd call him to the stand.

24 THE COURT: Okay.

25 DARYL CRANE, ELIJAH GROUP'S WITNESS, SWORN

Crane - Direct by Whitworth

36

DIRECT EXAMINATION

1
2 **BY MR. WHITWORTH:**

3 Q Good afternoon, Pastor Crane.

4 A Good afternoon.

5 Q Would you state your name for the record?

6 A Daryl Crane.

7 Q And what is it you do for a living?

8 A I'm a minister.

9 Q And do you operate a church as a minister?

10 A Yes, I do.

11 Q And where do you operate?

12 A At 6401 Bandera Road.

13 Q And that is the property -- is that the property that's
14 known as The Church on the Rock in Bandera?

15 A Yes, it is.

16 Q And how long have you been in that property?

17 A We received our temporary certificate of occupancy in
18 early September and I believe we have actually been in there
19 since October 17th, the second Sunday of October I believe.

20 Q Okay, and do you have a lease agreement stating that
21 you're allowed to be in there?

22 A Yes, sir.

23 Q And did you also attempt to purchase the property?

24 A Yes, sir.

25 Q And what is the status of that?

Crane - Direct by Whitworth

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1 A It's dependent upon a court case.

2 Q I'm sorry, dependent upon?

3 A It's dependent upon a legal issue that the City is trying
4 to change the zoning.

5 Q Okay. Were you at the church on November 17th when --

6 A Yes, I was.

7 Q -- the Fire Marshal came by?

8 A Yes, I was.

9 Q Okay, and did you have a chance to visit with him?

10 A Yes, I did.

11 Q And what was the basis of the visit?

12 A Well, it was somewhat ambiguous I must say because he came
13 and he told us -- normally when we received our temporary
14 certificate of occupancy, the lady who issued it said that the
15 Fire Marshal would be calling you and setting up a time for us
16 to come and check us out, which we were, you know, waiting
17 for. And I had actually contacted him on another occasion
18 about, you know, questions that I had because I knew that we
19 were going to -- well, I knew the building was in violation,
20 there was no question about that. It was just different areas
21 that we had.

22 So we were in the process of fixing of things and he
23 came in and he told me very specifically, he said, "This is
24 not a certificate of occupancy inspection." He even wrote it
25 on his inspection.

Crane - Direct by Whitworth

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1 And I said, "Well, what is it?"

2 And he says, "This is just a general fire
3 inspection."

4 And I said, "Well, okay." You know, and he led me
5 around and the list that he went over, he had that and he
6 said, "You're going to do this and this." And this is not our
7 first building. It's very typical, just like he said, for
8 them to go and do things of that nature. And then at the end
9 he visited with us about, you know, how we can do the things
10 that we need to do to get us up to code.

11 Q Okay. Did you fill out an application for a certificate
12 of occupancy?

13 A I didn't personally but one was done.

14 THE COURT: Well, let's get to the chase here.
15 Whether you have a certificate or not, or whatever, is
16 irrelevant. The issue here, the bottom-line issue, are there
17 any fire code violations? Are there any in existence at this
18 moment?

19 MR. WHITWORTH: Okay, I'll move on.

20 THE COURT: The City of Leon Valley could give you a
21 permit to be there for the next 100 years, that's irrelevant.
22 What's relevant is are you -- is the church, this building
23 compliant with the fire code regulations. If it's not, then
24 you-all have a problem with or without a permit, with or
25 without a certificate of occupancy.

Crane - Direct by Whitworth

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1 MR. WHITWORTH: Thank you, Your Honor, I'll move.

2 THE COURT: Let's get to the point here.

3 Q Okay, Pastor Crane, you were there on November 17th?

4 A Uh-huh.

5 Q Did the Fire Marshal give you a report that he said was a
6 fire inspection report?

7 A Yes, sir.

8 Q When were you provided a copy of that?

9 A The same day.

10 Q The same day? Before he left?

11 A Uh-huh.

12 Q Do you have a copy of it with you?

13 A Yes, I do, right in front of me, the copy he gave me.

14 Q Would you pull that out?

15 A Yes, I do.

16 Q And have you had an opportunity to look at that, the items
17 on there and do anything about them?

18 A Yes. And he told me that we had a couple of weeks, you
19 know, to do this. He told me, you know, as soon as possible
20 get this --

21 THE COURT: Okay, have they been fixed?

22 THE WITNESS: Yes, they have.

23 THE COURT: You're telling me that you have corrected
24 the fire alarm system?

25 THE WITNESS: I have not. A licensed person did it.

Crane - Direct by Whitworth

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1 THE COURT: Listen to my question.

2 THE WITNESS: Okay.

3 THE COURT: You're telling me that the fire alarm
4 system -- you've just said that someone told you and all that
5 is fine. I want to know, you're telling me that this fire
6 alarm system is now operable?

7 THE WITNESS: Yes, sir.

8 THE COURT: It's monitored?

9 THE WITNESS: Yes, sir, as far as I know. Now, I'm
10 going by -- I don't know anything about fire --

11 THE COURT: And who fixed it?

12 THE WITNESS: No, no -- who fixed it?

13 THE COURT: Yes.

14 THE WITNESS: We got the sticker that Mr. Valdez
15 referred to remains on the alarm system. The lady that
16 called Mr. Valdez was an ADT representative, that was just the
17 first person I --

18 THE COURT: I understand, but the bottom line is
19 you're telling me that the fire alarm system then, now at this
20 address 6401 Bandera, is operable?

21 THE WITNESS: Yes, sir. We called the tag of the
22 original installer and I told 'em the issue that we were
23 facing. We thought we had, you know, some more time. He came
24 out this afternoon --

25 THE COURT: And what is his name?

Crane - Direct by Whitworth

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1 THE WITNESS: I got his card before I left.

2 THE COURT: Okay. Well, I think this matter can be
3 easily resolved. If the fire inspector is permitted to go
4 this afternoon or evening or in the morning, the sooner the
5 better, and if he inspects it and he says it's fully compliant
6 with the code then doesn't that resolve the issue? And now,
7 on the other hand, if he says it isn't then doesn't that
8 resolve the issue against you also?

9 MR. WHITWORTH: I would agree with that, Your Honor.

10 THE COURT: I mean it's either fixed or not.

11 MR. WHITWORTH: Absolutely, and Counsel and I have
12 discussed that. It's either --

13 THE COURT: It's either operable or not.

14 MR. WHITWORTH: Correct.

15 THE COURT: And certainly the church does not want --
16 I know the church, nor the City, want to place any number of
17 people in any danger.

18 THE WITNESS: Right.

19 THE COURT: Right?

20 MR. WHITWORTH: Absolutely.

21 THE COURT: So why don't we do this? I'm going to
22 enter an order in favor of the City and basically it will
23 expire -- if the City Marshal goes out there and says
24 everything's fine, then this order will be of no consequence.
25 If he says, "No, it's not okay," then this order will last for

Crane - Direct by Whitworth

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1 ten days. Is that agreeable with everybody?

2 THE WITNESS: Can I say something?

3 THE COURT: Sure.

4 THE WITNESS: Could it be for maybe two days because
5 then we would -- the only thing that I know that would be an
6 issue could be resolved.

7 THE COURT: Let me ask you this, Pastor. Do you have
8 one church service on Sunday?

9 THE WITNESS: Yes.

10 THE COURT: At what time?

11 THE WITNESS: 11 o'clock.

12 THE COURT: Well, I would imagine that if -- I think
13 I know what you're getting up to. If the City tells you today
14 there's a problem and if you can get it fixed by -- I
15 guess what you're saying, "Can you give me till Sunday at 11
16 o'clock?" Let's do it this way. If he says you have a
17 problem, you got till 6 o'clock Saturday evening to fix it.

18 THE WITNESS: That'd be perfect.

19 THE COURT: Okay. I don't want him waiting there
20 minute by minute by minute.

21 THE WITNESS: Right.

22 THE COURT: He has his own church to go to, I'm sure.

23 THE WITNESS: Yes, sir.

24 THE COURT: So he'll go out there. If he says
25 everything's fine, you proceed. If he says, "You still have

Crane - Direct by Whitworth

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1 this problem," if you get it resolved by Saturday 6 o'clock in
2 the evening, then -- and he says it's resolved then you can
3 proceed. If not, the order will remain in effect for ten
4 days.

5 THE WITNESS: Yes, sir.

6 MR. WHITWORTH: I only ask for one brief
7 clarification, Your Honor? That the use we're talking about
8 is a church use and not a daycare/school use.

9 THE COURT: Is that right?

10 THE WITNESS: Yes, sir.

11 THE COURT: Church. Good.

12 MR. WHITWORTH: Okay, so he doesn't have to inspect
13 it for daycare, he's just focused on church.

14 THE COURT: Right, just for church. Okay, do we all
15 understand each other?

16 MR. WHITWORTH: Judge, I had just one thing. Could
17 we use the same forum where he would go through the same
18 report? That way we can look at it and say, "Here the
19 problems are"?

20 THE COURT: Whatever is acceptable to --

21 MR. HENRY: It's a standard form, Your Honor.

22 THE COURT: Okay, use the same form. And if you
23 could -- when do you think you might be able to get out there,
24 Officer?

25 MR. VALDEZ: I can go straight there, sir.

Crane - Direct by Whitworth

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1 THE COURT: Okay. And I appreciate you -- you're
2 probably already working overtime and everything, and I
3 appreciate the City's willingness to even work through the
4 weekend to try to resolve this issue. And, Pastor, I
5 appreciate your willingness to accept the proposition that the
6 thing needs to be fixed.

7 THE WITNESS: Absolutely.

8 THE COURT: Your congregation would not be happy --

9 THE WITNESS: You're right.

10 THE COURT: Right?

11 THE WITNESS: You're right.

12 THE COURT: Okay. So let's get it all fixed.

13 THE WITNESS: Thank you, sir.

14 THE COURT: And if it's not fixed this weekend, I'm
15 sure it'll be fixed --

16 THE WITNESS: Yes, it will.

17 THE COURT: -- soon.

18 THE WITNESS: It'll be fixed.

19 THE COURT: Do you take special prayer requests?

20 THE WITNESS: Yes, we do.

21 THE COURT: Well, the DCS poll already came out.

22 THE WITNESS: We've been all praying for that for a
23 long time.

24 THE COURT: Thank you.

25 (Proceedings concluded.)

1 UNITED STATES DISTRICT COURT)
2 WESTERN DISTRICT OF TEXAS)

3

4 I, MAURICE D. WEST, Official Court Reporter, United
5 States District Court, Western District of Texas, do certify
6 that the foregoing is a correct transcript from the record of
7 proceedings in the above-entitled matter.

8 I certify that the transcript fees and format comply
9 with those prescribed by the Court and Judicial Conference of
10 the United States.

11

12

13

14 21 June 2009

/s/Maurice D. West
MAURICE D. WEST
Official Court Reporter
United States District Court
Western District of Texas

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Paid

Discussion of Status

By Mr. Henry -----

By Mr. Whitworth -----

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WITNESS FOR

LEON VALLEY:Direct Cross Redirect

Luis Valdez 10

Clarifying By Court -----

Clarifying By Court 20 25 32 -----

Clarifying By Court -----

11
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WITNESS FOR

ELIJA GROUP:Direct

Daryl Crane 36